

REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1, 2, 7, and 10-31 are pending in the application, Claims 26-32 are added, Claims 1, 2, 7, 10-14, and 21 are amended, and Claims 3-6, 8, and 9 are canceled without prejudice by the present amendment. Support for the amendments to Claims 1, 14, and 21 is found in the Specification at page 4, lines 29-31, for example, and no new matter is added. Support for new Claims 26-31 is found in figure 1, for example, and no new matter is added. Claim 2 is amended to include the elements of 3-6 and Claim 7 is amended to include the elements of Claims 8 and 9. The preambles of Claims 1-13 are amended to more clearly describe and distinctly Claims Applicants' invention. Therefore, no new matter is added.

In the outstanding Office Action, Claims 1-5, 7, 8, 10, 12, 14, 15, 19-23 and 25 were rejected under 35 U.S.C. §102(e) as being anticipated by Manor (U.S. Publication No. 2002/0097798 A1); Claims 6, 17, and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manor; Claims 11, 16, and 24 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manor in view of Ganz et al. (U.S. Patent No. 6,584,080 B1); and Claims 9 and 13 were rejected under 35 U.S.C. §103(a) as being unpatentable over Manor in view of Wei et al. (U.S. Patent No. 6,515,967 B1).

Claim 1 is directed to a system for diagnosis of video device performance in transferring audio visual data over a video network. The system includes a physical network interface operable to receive audio visual data associated with the video device. A diagnostic tool is operable to access the audio visual data as the audio visual data travels over the video network. A diagnostic engine is interfaced with the diagnostic tool and is operable to determine performance statistics by analysis of the audio visual data accessed with the diagnostic tool. This configuration allows for a substantial reduction in the disadvantages

associated with diagnosing video device performance in the transfer of audio visual data over a video network.<sup>1</sup>

Amended Claim 1 recites “a diagnostic tool operable to access the audio visual data as said audio visual data travels over said video network.” Indeed, Manor does not teach or suggest this element of amended Claim 1.

On the contrary, Manor teaches a system for coding and decoding data. As part of the system, Manor teaches a CPE device that includes a diagnostic module 480. Diagnostic module 480 only checks the health and status of each of the processors and/or modules within the access device 400 and reports on the health and status of each of the processors or modules therein.<sup>2</sup> Therefore, diagnostic device 480 does not teach or suggest the claimed “a diagnostic tool operable to access the audio visual data as said audio visual data travels over said video network.”

Furthermore, Manor teaches verifying the operation of a video encoder 555 or MPEG codec 575, which are only internal components of a CPE device.<sup>3</sup> Manor teaches

...the CPU 460 may include a pattern generator that generates digital images. These generated images are provided to video encoder 555 or MPEG codec 575. The video encoder 555 or MPEG codec 575 may then receive the generated images and then output images for analysis by the CPU 460. The CPU 460 may also compare the output images with images stored in the memory 450 to assess the operation of the video encoder 555 or MPEG codec 575. For example, if the output images differ from the stored images, the CPU 460 may determine that the video encoder 555 may not be functioning properly. In one embodiment, the CPU 460 may produce images during boot-up and/or during idle periods to periodically assess the operation of the video encoder 555 or MPEG codec 575.<sup>4</sup>

The data tested in Manor is data that is generated for the purpose of testing and it only travels within CPE device 130 and not over a network. Furthermore, the data generated for testing in

---

<sup>1</sup> Specification, page 4, lines 10-12.

<sup>2</sup> Moran, paragraph [0050].

<sup>3</sup> Moran, Fig. 5.

<sup>4</sup> Moran, paragraph [0061].

Manor is not accessed as the data travels over a network, but is analyzed at the data's destination of CPU 460. Thus, Manor does not teach or suggest the claimed "diagnostic tool operable to access the audio visual data as said audio visual data travels over said video network."

Furthermore, because Manor does not teach or suggest the claimed "diagnostic tool," Manor does not teach or suggest the claimed "diagnostic engine interfaced with the diagnostic tool and operable to determine performance statistics by analysis of the audio visual data accessed with the diagnostic tool."

In view of the above-noted distinctions, Applicants respectfully submit that amended Claim 1 (and its dependent Claims 2-13) patentably distinguish over Manor. Amended independent Claims 14 and 21 are similar to Claim 1. Applicants respectfully submit that amended Claims 14 and 21 (and their dependent Claims 15-25) patentably distinguish over Manor for at least the reasons given for Claim 1.

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Bradley D. Lytle  
Attorney of Record  
Registration No. 40,073

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

Michael E. Monaco  
Registration No. 52,041